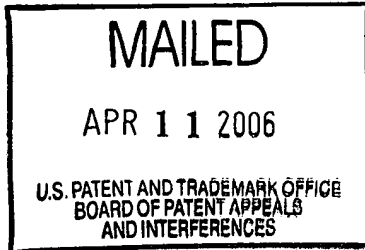


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHRISTOPHER K. SUTTON

Application 09/991,020

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on April 3, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the Image File Wrapper (IFW) indicates that an Information Disclosure Statement (IDS) was filed November 15, 2001. It is not apparent from the record whether the examiner considered the statement submitted or notified appellant of why his submission did not meet the criteria set

forth in 37 CFR §§ 1.97 and 1.98. A communication notifying appellant of the Primary Examiner's decision is required.

In addition, appellant filed an Appeal Brief on July 15, 2005. The examiner acknowledged the Appeal Brief in an Examiner's Answer mailed on September 29, 2005. Section 1207.02 of the Manual of Patent Examining Procedure (MPEP) (8th Ed., Rev. 3, August 2005) states:

Requirements for Examiner's Answer

The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

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(8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

It is noted that while the Examiner's Answer states that "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal" [page 3 under the caption "Evidence Relied Upon"], the claim rejections are listed as follows:

1. Claims 1-19 and 21-24 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,134,674 of Akasheh [page 3]; and

2. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akasheh in view of Applicant's Admitted Prior Art, referred hereinafter "AAPA" [page 11].

Correction is required.

Accordingly, it is

ORDERED that the application is returned to the

Examiner:

1) for consideration of the IDS filed November 15, 2001 with appropriate notification to appellant regarding the Primary Examiner's decision;

2) for submission of a revised Examiner's Answer which corrects the "Evidence Relied Upon" section; and

3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

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DMS/psb

Application 09/991,020

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